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LEASE AND FINANCING AGREEMENT

Dated as of September 1, 2008

by and between

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

as Lessor

UNIVERSITY RESIDENCES - LOUISVILLE, LLC

as Lessee and Bondholder

relating to

\$40,000,000

Louisville/Jefferson County Metro Government  
Industrial Building Revenue Bond, Series A  
(University Residences - Louisville, LLC Project)

APPROVED AS TO FORM AND LEGALITY

Michael J. O'Connell

Jefferson County Attorney

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By: James T. Carey  
Assistant County Attorney

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## **LEASE AND FINANCING AGREEMENT**

THIS LEASE AND FINANCING AGREEMENT (the "Lease") is made as of June 1, 2008, by and between the LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("Metro Government"), a consolidated local government and political subdivision of the Commonwealth of Kentucky, UNIVERSITY RESIDENCES - LOUISVILLE, LLC (the "Company"), an Ohio limited liability company.

Terms defined in this Lease are used as defined. Unless otherwise indicated, references to Articles or Sections refer to those in this Lease.

### **Recitals**

A. The Metro Government is authorized by the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act"), to issue industrial building revenue bonds for the purpose of defraying the cost of any "industrial building" (as defined in the Act), including specifically any land, buildings, structures, improvements, equipment, machinery and other facilities suitable for any activity, including new construction designed for revitalization or redevelopment of downtown business districts as designated by the Issuer, subject to the review and approval of the State Local Debt Officer pursuant to KRS 103.2101(1), in order to accomplish the public purposes of promoting the economic development of the Commonwealth of Kentucky (the "State"), relieving conditions of unemployment and encouraging the increase of industry therein.

B. The Metro Government has by an Ordinance duly enacted on September \_\_\_, 2008 (the "Bond Ordinance") undertaken pursuant to the Act the issuance of its industrial building revenue bonds to finance the acquisition, construction, and installation of the Project hereinafter defined. The Metro Government has made a determination in its Inducement Resolution enacted April 17, 2008, that the Project was located in its "downtown business district." The Metro Government has found and declared in the Bond Ordinance that the Project will further the public purposes of the Act by promoting the economic development of the State, relieving conditions of unemployment, and encouraging the increase of industry therein.

C. The Bond Ordinance authorizes the Metro Government to issue its industrial building revenue bonds of even date herewith in the principal amount of \$40,000,000 for the purpose of financing a portion of the costs associated with the acquisition, construction, and installation of the Project, said bonds to be issuable as a single bond in fully registered form and to be designated "Louisville/Jefferson County Metro Government, Industrial Building Revenue Bond, Series A (University Residences - Louisville, LLC Project)" (the "Bond").

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree, covenant, grant, pledge, assign, represent, and warrant as follows (it being understood and agreed that in the performance of the agreements of the Metro Government herein contained any obligation it may incur for the payment of money shall not be a general

obligation on its part or a charge against its general credit or taxing power but shall be payable solely from the Pledged Receipts):

## ARTICLE 1 PLEDGE AND ASSIGNMENT BY METRO GOVERNMENT

In order to secure the due payment of the principal of and interest on the Bond and compliance by the Company and the Metro Government with their agreements contained herein,

Section 1.1. Pledge and Assignment by Metro Government. The Metro Government hereby grants, pledges, and assigns to the Bondholder the Pledged Receipts and all of the Metro Government's right, title, and interest in this Lease, including enforcement rights and remedies (including the grant herein of a security interest under the Uniform Commercial Code to the maximum extent possible), but excepting from such pledge and assignment the right of the Metro Government to any payment or reimbursement pursuant to Section 10.1.D[1] or [2].

Section 1.2. Defeasance of Lien; Termination of Lease. When all principal and interest due or to become due on the Bond have been duly paid and all Additional Payments have been paid or provided for to the reasonable satisfaction of the Bondholder, the lien of this Lease on the Pledged Receipts shall terminate and the Company's obligations hereunder shall terminate.

## ARTICLE 2 DEFINITIONS

The following terms as used in this Lease, the Bond, and any certificate or other document executed in connection therewith shall have the following meanings (or as defined elsewhere in this Lease as indicated below) unless the context otherwise indicates:

"Act" -- See Recitals.

"Additional Payments" means the amounts required to be paid by the Company under Section 10.1.D.

"Bond Counsel" means an attorney-at-law or a firm of attorneys of nationally recognized standing in matters pertaining to obligations issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America, selected by the Company.

"Bond Documents" means collectively this Lease and the Bond Purchase Agreement.

"Bondholder" or "holder" or "owner of the Bond" means, as of any time, the registered owner of the Bond as shown in the register kept by the Company as bond registrar and, as of the date of execution and delivery of this Lease, means University Residences - Louisville, LLC.

"Bond Purchase Agreement" means the Bond Purchase Agreement of even date herewith between the Metro Government and the Company.

"Bond" -- See Recitals.

"Closing Date" means the date of original delivery of the Bond which is the date of this Lease.

"Company" -- See the first paragraph of this Agreement.

"Completion Certificate" -- See Section 6.2.

"Costs of the Project" means the actual costs of the Project, as authorized by the Act, including the following:

[1] all costs and expenses incurred by the Company in connection with the planning, development and design of the Project, including the cost of preliminary investigations, surveys, estimates, environmental assessments, plans and specifications;

[2] all costs of acquiring the Project Site and acquiring and constructing the Project Building, including any modifications or improvements to the Project Site, including the cost to the Company of supervising construction, payments to contractors, workmen, and materialmen and fees for professional or other specialized services;

[3] all costs of acquiring and installing Project Equipment;

[4] the cost of contract bonds and insurance of all kinds that may be necessary or desirable in connection with the construction of the Project Building which are not paid for by any contractor or otherwise provided for;

[5] all costs incurred in connection with the issuance of the Bond, including without limitation financial, legal, accounting, and appraisal costs; the Metro Government's actual out-of pocket expenses; the costs of printing and reproduction; the costs of filing or recording this Lease, and any financing statements or other related documents; and all other costs incident to the issuance, sale, and delivery of the Bond.

[6] all amounts necessary to pay in part or in full temporary loans and advances made to the Company if the funds provided by such loans or advances were used by the Company to pay Costs of the Project.

[7] interest on the Bond during the construction of the Project Building;  
and

[8] all amounts necessary to reimburse the Company for moneys paid or advanced by the Company for any of the aforesaid costs and expenses.

"Default" and "event of default" -- See Section 11.1.

"KRS" means the Kentucky Revised Statutes.

"Lease" means this Lease and Financing Agreement, as the same may be amended or supplemented in accordance with its terms.

"Lease Term" means the term of this Lease, i.e., the period from the date hereof through full payment of the principal of and interest on the Bond in accordance with this Lease, upon which payment this Lease shall terminate.

"Lease Payments" -- See Section 10.1.C.

"Metro Government" -- See first paragraph of this Agreement.

"Notice Address" means:

[a] As to the Metro Government:

Louisville/Jefferson County Metro Government  
527 West Jefferson Street  
Louisville, Kentucky 40202  
Attention: Mayor

[b] As to the Company:

University Residences - Louisville, LLC  
c/o Edwards Companies  
495 South High Street, Suite 150  
Columbus, Ohio 43215  
Attention: James E. Frey

[c] As to the Bondholder:

University Residences - Louisville, LLC  
c/o Edwards Companies  
495 South High Street, Suite 150  
Columbus, Ohio 43215  
Attention: Michael Fite

or to such other address as any party shall designate by notice to the other parties.

"Persons" means natural persons, partnerships, associations, corporations, and public bodies.

"Pledged Receipts" means all of the Metro Government's right, title, and interest in this Lease and all Lease Payments and other revenues received or receivable by the Metro Government, or the Bondholder for the account of the Metro Government, in respect of the Project, except for payments to the Metro Government under clauses [1] and [2] of Section 10.1.D or under Section 10.5.

"Prior Security Documents" means, collectively, [here insert Prior Security Documents of a true lender].

"Project" means the acquisition, construction and equipping of an industrial building located at 620 Shipp Avenue, Louisville, Kentucky 40208 designed for the revitalization of that district (the "Project Building"), on the site described in Exhibit A hereto (the "Project Site"), and the furniture, fixtures, machinery, equipment and other personal property located in, on, or at such facility, which facility shall consist of approximately 366 apartment units designed for university students, as so expanded, or the site thereof, and financed from the proceeds of the Bond and any modifications, substitutions, and additions thereto permitted under the terms of this Lease.

"Series A Bonds" shall mean the Metro Government's Industrial Building Revenue Bonds, Series A (University Residences - Louisville, LLC Project).

"State" means the Commonwealth of Kentucky.

Any reference in this Lease to the Metro Government, the Company, or the Bondholder shall include those which succeed to their functions, duties, or responsibilities pursuant to or by operation of law or who are lawfully performing their functions. Any reference in this Lease to any statute or law or chapter or section thereof shall include all amendments, supplements, or successor provisions thereto.

### ARTICLE 3 THE BOND

Section 3.1. Issuance of Bond. The Bond shall be designated "Louisville/Jefferson County Metro Government, Industrial Building Revenue Bond, Series A (University Residences - Louisville, LLC Project)" and shall be issued as a single typewritten, fully registered bond in the maximum principal amount of \$40,000,000. The Bond shall have the terms and be substantially in the form set forth in Exhibit D.

Interest on the Bond shall accrue from the Closing Date on the principal balance thereof outstanding from time to time at the rate of six percent (6%) per annum. Interest on the



Bond shall be payable on each anniversary of the Closing Date. Subject to prepayment pursuant to Article 4, the entire outstanding principal of the Bond shall be payable on June 1, 2033.

Section 3.2. Delivery of Bond. Upon compliance with and fulfillment of the terms and conditions of the Bond Purchase Agreement, the Metro Government shall execute and deliver the Bond to the Bondholder.

Section 3.3. Execution. The Bond shall be executed on behalf of the Metro Government by the manual signature of its Mayor. The official seal of the Metro Government (attested with the manual signature of its Metro Council Clerk) shall be impressed on the Bond. In case any officer whose signature appears on the Bond shall cease to be such officer before the delivery of the Bond, such signature shall nevertheless be valid and sufficient for all purposes.

Section 3.4. Lost Bond; Exchange and Transfer of Bond. If the Bond is lost, stolen, destroyed, or improperly cancelled, the Metro Government and the Company shall replace such Bond upon presentation to them of satisfactory proof of such loss, theft, destruction, or improper cancellation and an indemnity bond in such amount as the Metro Government and the Company may require. The person in whose name the Bond is registered on the bond register maintained by the Company shall be deemed the absolute owner thereof for all purposes; and payment of any principal of or interest on the Bond shall be made only to or upon the order of the registered owner thereof or the owner's attorney or legal representative. Such payments shall fully discharge the liability on the Bond to the extent of the sums so paid.

In all cases in which a Bond shall be issued in exchange for or in replacement of another Bond, the Bond to be issued shall be signed by the same officers who signed the original Bond or by officers then in such offices or otherwise authorized to sign. The obligation of the Metro Government and the rights of the holder with respect to such Bond shall be the same as with respect to the Bond being exchanged or replaced. The Metro Government and the Company may charge the holder their reasonable fees and expenses for effecting such exchange or replacement.

The Company shall not be required to effect the transfer of the Bond during the fifteen (15) days preceding an interest payment date or after notice to the Bondholder that the Bond or any portion thereof is to be prepaid. The Company may make a charge sufficient to reimburse it for any tax or other governmental charge applicable to any exchange, transfer, or replacement. Such charge shall be paid before any exchange, transfer, or replacement is effected.

**Section 3.5. Bond Not A General Obligation. The Bond shall not constitute an indebtedness or pledge of the general credit or taxing power of the Metro Government, the State, or any political subdivision thereof, and all payments by the Metro Government hereunder are not general obligations of the Metro Government but are limited obligations payable solely from the Pledged Receipts and are a valid claim of the Bondholder only against the Pledged Receipts. Nothing herein shall be construed as requiring the Metro Government to use any funds or revenues from any source other than the Pledged Receipts.**

Section 3.6. Company as Bond Registrar; Bond Register. The Company is hereby designated as bond registrar for the Bond and, as such, will keep a register of the name and address of the registered owner from time to time of the Bond.

Section 3.7. Schedule of Disbursements and Payments. On the Schedule of Disbursements and Payments attached to the Bond, the Bondholder may note the date and amount of each disbursement of the principal amount of the Bond pursuant to Section 5.1 hereof, the date and amount of each payment of interest on the Bond pursuant to Section 3.1 hereof, the date and amount of each prepayment of principal of the Bond pursuant to Article 4 hereof, and the outstanding principal amount of the Bond from time to time; provided, however, that the presence or absence of any such notation shall not be conclusive as to the actual outstanding principal amount of or interest payable on the Bond at any time.

#### ARTICLE 4 PREPAYMENT OF BOND BEFORE MATURITY

Section 4.1. Right to Prepayment of Principal. Principal of the Bond may be prepaid, as directed by the Company, prior to stated maturity, in whole or part, on any date at 100% of the principal amount prepaid, plus accrued interest thereon to the prepayment date. All such prepayments shall be in amounts of not less than \$100,000 or in whole multiples thereof, or such lesser amount as may be required to prepay the Bond in whole.

Section 4.2. Notice of Prepayment of Bond. Written notice of any prepayment, stating the amount of principal of the Bond to be prepaid and the prepayment date, shall be given to the Bondholder by the Company on behalf of the Metro Government at least fifteen (15) days prior to the proposed prepayment date. If the Bond is prepaid in whole, the notice shall direct that the Bond be surrendered to the Company for payment.

Section 4.3. Right of Bondholder to Demand Prepayment. By written notice to the Company, with a copy to the Metro Government, the Bondholder may demand that the Company prepay all or a portion of the outstanding principal amount of the Bond, at 100% of the principal amount prepaid plus accrued interest thereon to the date of prepayment, on any specified date not less than fifteen (15) nor more than thirty (30) days after the date of such notice. Any such prepayment shall be in the amount of \$100,000 or whole multiples thereof, or such lesser amount as may be required to prepay the Bond in whole. If the Bond is to be prepaid in whole, the Bondholder shall surrender the Bond to the Company on or before the specified prepayment date.

#### ARTICLE 5 DISBURSEMENT OF BOND PROCEEDS

Section 5.1. Disbursement of Bond Proceeds. From time to time on and after the Closing Date, upon submission by the Company to the Bondholder of a Requisition Certificate in the form of Exhibit C attached hereto, properly completed and signed on behalf of the Company, the Bondholder shall disburse to or for the account of the Company an aggregate

principal amount not in excess of \$40,000,000 to pay or to reimburse the Company for Costs of the Project not in excess of such maximum aggregate principal amount. Each such disbursement shall be in increments of \$100,000 (except for the final disbursement which may be in any increment of \$5,000) and shall constitute a payment pro tanto of the purchase price for the Bond as set forth in the Bond Purchase Agreement. As provided in Section 3.7 hereof, the Bondholder may note the date and amount of each disbursement on the Schedule of Disbursements and Payments attached to the Bond.

## ARTICLE 6 COMPLETION OF THE PROJECT

Section 6.1. Company's Obligation to Complete and Maintain Project. Whether or not the proceeds of the Bond are sufficient to pay or to reimburse the Company for the payment of all Costs of the Project, the Company shall cause the Project to be completed as promptly as feasible and shall at its expense do or cause to be done all things necessary or proper for such completion in accordance with applicable law and regulations.

The Project is an "industrial building" within the meaning of the Act. The Company intends to operate and maintain the Project at all times during the Lease Term as such an industrial building and does not know of any reason why the Project will not be so operated and maintained by the Company in the absence of circumstances not now anticipated by the Company or beyond its control.

The Company shall take no action which would affect the qualification of the Project as an "industrial building," as defined in the Act, or which would adversely affect in any material respect the description of the Project approved by the Metro Government.

Section 6.2. Completion Certificate. Completion of the Project shall be evidenced to the Bondholder by a Completion Certificate executed by the Company [i] stating that the Project has been substantially completed and all costs then due and payable in connection therewith, except for percentage retainage amounts under any construction agreement, have been paid, and that completion has been accomplished in such a manner as to conform with all applicable zoning, planning, building, land use, environmental, and other regulations of all governmental authorities having jurisdiction; [ii] specifying the date by which the foregoing events had occurred; and [iii] stating that such Completion Certificate is given without prejudice to any rights against third parties which then exist or may subsequently come into being.

## ARTICLE 7 DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1. Damage and Destruction. If the Project shall be damaged or destroyed by fire, flood, or other casualty, there shall be no abatement or reduction in the payments required to be made by the Company hereunder and the Company shall repair, replace, restore, or reconstruct the Project so as to restore it to substantially its prior value and to a state suitable for its continued use as reasonably determined by the Company. If the net proceeds of any insurance on the Project are insufficient, the Company will nevertheless complete such

repair, rebuilding, or restoration and will provide for payment of the costs of such completion from its own funds. Any insurance proceeds remaining after payment of all such costs shall be paid to the Company. However, if within 30 days after the damage, the Company determines in good faith that the Project is damaged to such extent that it cannot be reasonably restored to the foregoing condition within six months, the Company shall not be obligated to restore the Project and any insurance proceeds shall be applied to the prepayment of the Bond at the earliest possible date.

Notwithstanding the foregoing provisions of this Section 7.1, if an event of default shall have occurred and be continuing hereunder, the net proceeds of any insurance resulting from any damage to or destruction of the Project shall be applied to the prepayment (or, if acceleration has been declared pursuant to Section 11.2 hereof, the payment) of the Bond.

Section 7.2. Eminent Domain. If title to or the temporary use of all or part of the Project shall be taken under the exercise of the power of eminent domain, there shall be no abatement or reduction in the payments required to be made by the Company hereunder and any net proceeds from an award for such taking shall be paid to the Company and applied at its option to one or more of the following purposes:

A. The restoration of the Project to an economic unit comparable to its previous state;

B. The acquisition or construction of other land and improvements, exclusive of movables, deemed by the Company to be adequate for the continuance of its business operations (which improvements shall be deemed apart of the Project); or

C. The prepayment of the Bond at the earliest possible date.

Notwithstanding the foregoing provisions of this Section 7.2, if an event of default shall have occurred and be continuing hereunder, the net proceeds of any condemnation award shall be applied to the prepayment (or, if acceleration has been declared pursuant to Section 11.2 hereof, the payment) of the Bond.

Section 7.3. Payment to Company. Upon the termination of this Lease, proceeds of any insurance or condemnation award shall be paid to the Company free of any obligation hereunder.

## ARTICLE 8 REPRESENTATIONS AND AGREEMENTS OF METRO GOVERNMENT

Section 8.1. Due Authorization, etc., by the Metro Government. The Metro Government represents and warrants that [i] it is duly authorized under the laws of the State, including the Act, to issue the Bond, to execute, deliver, and perform the Bond Documents, to assign its interest in this Lease, and to pledge the Pledged Receipts as provided herein; [ii] it has taken all necessary action and has complied with all provisions of the Act required to make the Bond Documents and the Bond the valid and enforceable obligations they purport to be, and

when executed and delivered by the Metro Government, this Lease will constitute a valid and binding obligation of the Metro Government in accordance with its terms; and [iii] when duly delivered and paid for, the Bond will constitute a valid and legally binding limited obligation of the Metro Government in accordance with its terms and will be entitled to the benefits of this Lease.

**Section 8.2. Payment of Bond; Bondholder's Rights with Respect to the Lease; Cooperation with Bondholder; Obligations of Metro Government Limited.** The Metro Government agrees that it will promptly pay or cause to be paid the principal of and interest on the Bond as herein provided, but only from revenues from the Company. The Metro Government agrees that the Bondholder may enforce all rights of the Metro Government and all obligations of the Company with respect to this Lease, whether or not the Metro Government is in default hereunder. The Metro Government agrees that, except as provided herein, it will not mortgage, assign, encumber, or alienate any part of the Pledged Receipts or its rights with respect to this Lease. The Metro Government further agrees to provide assurances to the same extent as required of the Company under Section 10.4.

All agreements of the Metro Government in this Section 8.2 are subject to the limitation prescribed in Section 3.5.

## ARTICLE 9 REPRESENTATIONS AND AGREEMENTS OF THE COMPANY

Section 9.1. Due Organization, etc. The Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Ohio. The Company has all powers adequate for the execution, delivery, and performance of its obligations under the Bond Documents. The Company has taken or will take all necessary action required to make the Bond Documents and the other documents and instruments executed in connection herewith and therewith the valid and enforceable obligations they purport to be. When executed and delivered by the Company, this Lease will constitute a valid and binding obligation of the Company in accordance with its terms.

Section 9.2. Compliance with Law; Consents, etc. The execution, delivery, and performance of and compliance with this Lease will not violate or constitute a default under the articles of incorporation or bylaws of the Company or, to the knowledge of the Company, of any term or provision of any mortgage, lease, agreement, or other instrument, or of any judgment, decree, governmental order, statute, rule, or regulation by which the Company is bound or to which any of its assets is subject. No approval by, authorization of, or filing with any Federal, state, or municipal or other governmental commission, board, agency, or other governmental authority is necessary in connection with the execution and delivery of this Lease by the Company.

Section 9.3. The Project, etc.

A. The willingness of the Metro Government to issue the Bond for the purpose of financing the Costs of the Project has induced the Company to establish the Project within the Metro Government.

B. The Project constitutes an "industrial building" within the meaning of the Act, and the Company believes and the Metro Government has found in the Bond Ordinance that the Project will tend to promote the economic development of the State, relieve conditions of unemployment, and encourage the increase of industry therein.

Section 9.4. Adequacy of Disclosure. Neither this Lease nor the Bond Purchase Agreement nor any other document, certificate, or statement furnished to the Bondholder by or on behalf of the Company in connection with the transactions contemplated hereby or thereby contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

Section 9.5. Use of Proceeds. The proceeds of the Bond will be used to finance the Costs of the Project as provided in this Lease. The proceeds of the Bond will not be used, directly or indirectly, for the purpose, whether immediate, incidental, or ultimate, of "purchasing" or "carrying" any "margin stock," within the meaning of those terms as defined in Regulation U of the Board of Governors of the Federal Reserve System, as amended from time to time.

Section 9.6. Employment Covenant. The Company agrees and understands that a condition of the issuance of the Bonds by the Issuer is that certain labor conditions be in place. Attached hereto and made a part hereof as Exhibit E, those conditions are set out.

ARTICLE 10  
LEASE OF PROJECT AND LEASE PAYMENTS;  
CERTAIN AGREEMENTS OF COMPANY;  
OPTION OR OBLIGATION TO PURCHASE PROJECT;  
SUBORDINATION TO PRIOR SECURITY DOCUMENTS

Section 10.1. Lease of Project; Lease Payments; Additional Payments.

A. Lease of Project. The Metro Government hereby rents and leases to the Company, and the Company hereby rents and leases from the Metro Government, the Project for the Lease Term, in accordance with the provisions of this Lease. The Company is in possession of the Project and the Metro Government shall do nothing to interfere with the Company's quiet and exclusive possession of the Project as it is completed and throughout the Lease Term, provided there be no event of default and subject only to such possession by the Metro Government of the Project as shall be necessary and convenient for it to undertake its obligations and exercise its rights pursuant to this Lease and the Act.

B. Company Risk as to Title and Condition. The Company is familiar with the state of title to the Project and its condition and leases the Project subject to all conditions affecting the same and as the same is acquired, constructed, and installed. The Company assumes

all risks, if any, resulting from any present or future, latent or patent defects therein, or from the failure of the Project to comply with any legal requirements applicable thereto. The Metro Government has made no representations as to the state of title or condition of the Project or its suitability for the purposes of the Company, and the Metro Government leases the Project to the Company "as is."

C. Lease Payments. Not later than the date on which any interest or principal is due on the Bond, the Company agrees to pay as a Lease Payment to the Bondholder, for the account of the Metro Government, a sum in immediately available funds equal to all such payments then due.

D. Additional Payments. The Company agrees to duly make Additional Payments as follows:

[1] To the Metro Government, as reimbursement for costs, reasonable expenses, and liabilities paid by the Metro Government in satisfaction of any obligations of the Company not performed by the Company as required hereunder or under the Bond Purchase Agreement.

[2] To the Metro Government, as reimbursement for or prepayment of its expenses and liabilities paid or to be paid at the request of the Company or as required by the Act, this Lease, or the Bond Purchase Agreement, and not otherwise required to be paid by the Company under this Lease.

[3] To the Bondholder, all out-of-pocket costs and expenses, including the reasonable fees and expenses of its counsel, in connection with the Bond Documents and the Bond.

Section 10.2. Assignment or Sublease . This Agreement may be assigned, or the Project Building and the Project Site may be subleased by the Company without the necessity of obtaining the consent of either the Metro Government or the Bondholder, subject, however, to each of the following conditions:

(a) The assignee or sublessee shall assume the obligations of the Company hereunder to the extent of the interest assigned or subleased; and

(b) The Company shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Metro Government and to the Bondholder a true and complete copy of each assignment or sublease and assumption of obligation, as the case may be.

Section 10.3. [Reserved] .

Section 10.4. Covenants of the Company Related to the Project.

A. Compliance with Regulations. The Project and any use thereof by the Company shall conform with all applicable zoning, planning, building, land use, environmental,

and other regulations of governmental authorities having jurisdiction over the Project. The Company may at its own cost remodel or make substitutions, modifications, and improvements to the Project as it deems desirable for its uses and purposes and the same shall be included as part of the Project.

B. Disposition of Portions of Project. Notwithstanding any other provision in this Lease, the Company may sell or dispose of all or any portion of the Project.

C. Taxes, Other Governmental Charges, and Utility Charges. The Company shall duly pay all taxes and governmental charges of any kind that may at any time be lawfully assessed or levied against or with respect to the Project, all utility and other charges incurred in the operation, maintenance, use, occupancy, and upkeep of the Project, and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project. However, the Company may contest in good faith any such items, assessments, and other charges and in such event may permit the taxes, assessments, or other charges to be contested or remain unpaid during any period, including appeals, when the Company is in good faith contesting the same, so long as adequate reserves have been established and enforcement of the contested item is effectively stayed.

The Metro Government and the Company recognize and acknowledge that, as long as title to the Project is held by the Metro Government, the Project shall be exempt from ad valorem taxation pursuant to KRS 103.285 except for the annual ad valorem tax for state tax purposes on privately-owned leasehold interests in industrial buildings under KRS 132.020(1). However, as a condition to the issuance of the Bond and in consideration therefor, during the term of this Lease the Company shall make a payment each year directly to the Jefferson County School District and the Commonwealth of Kentucky, in the same amount and at the same time as the annual ad valorem taxes that would be levied by said taxing districts on the Project for such year were title to the Project not held by the Metro Government, pursuant to a Payment In Lieu of Taxes Agreement dated as of September 1, 2008. It is understood and agreed that the Company may take credit toward its ad valorem tax payments to the Commonwealth of Kentucky for the annual ad valorem tax for state tax purposes on privately owned leasehold interests in industrial buildings under KRS 132.020(1).

D. Right of Access. The Company agrees that, upon reasonable request, the Metro Government and the Bondholder and their respective representatives may at all reasonable times examine and inspect the Project.

Section 10.5. Instruments of Further Assurance. The Company will do, execute, acknowledge, and deliver or cause to be so performed such agreements and such further acts, instruments, and transfers as the Bondholder may reasonably require for the better assuring, transferring, pledging, assigning, and conferring unto the Bondholder the property and rights herein described and the income and revenue pledged hereby.

Section 10.6. Company's Indemnification of the Metro Government and the Bondholder. The Company shall indemnify and save harmless the Metro Government and its elected officials, officers, employees, and agents and the Bondholder, its directors, officers,



employees, and agents against and from [a] all claims by or on behalf of any person arising out of [i] the condition of the Project, or [ii] the construction, reconstruction, improvement, use, occupancy, conduct, or management of any work or anything done or omitted to be done in or about the Project, or [iii] any accident, injury, or damage to any person occurring in or about the Project, or [iv] any breach or default by the Company of any of its obligations under this Lease or the Bond Purchase Agreement, or [v] any act or omission of the Company or any of its agents, contractors, servants, employees, or licensees, or [vi] the offering, issuance, sale, or resale of the Bond, but only to the extent permitted by law, and [b] all costs, counsel fees, expenses, or liability reasonably incurred in connection with any such claim or action or proceeding brought thereon. If any action or proceeding is brought against the Metro Government or the Bondholder or any such elected official, director, officer, employee, or agent by reason of any such claim, the Company upon notice from the affected party shall resist or defend such action or proceeding. Subject to the foregoing, the Metro Government and the Bondholder shall cooperate and join with the Company as may be required in connection with any action taken or defended by the Company.

The Metro Government and the Bondholder and their respective elected officials, directors, officers, employees, and agents shall be entitled to the advice of counsel and shall be wholly protected as to action taken or omitted to be taken in good faith in reliance on such advice. They may rely conclusively on any communication or other document furnished to them hereunder and reasonably believed to be genuine. They shall not be liable for any action [a] taken by them in good faith and reasonably believed by them to be within the discretion or powers conferred upon them, or [b] in good faith not taken by them because reasonably believed to be beyond the discretion or powers conferred upon them, or [c] taken by them pursuant to any direction or instruction by which they are governed hereby, or [d] omitted to be taken by them by reason of the lack of any direction or instruction required hereby for such action; nor shall they be responsible for the consequences of any error of judgment reasonably made by them. They shall in no event be liable for the application or misapplication of funds, or for other acts or defaults, by any person except their own respective elected officials, directors, officers, employees, and agents. When any consent or other action by them is called for hereby, they may defer such action pending receipt of such evidence as they may require in support thereof. They shall not be required to take any remedial action (other than the giving of notice) unless reasonable indemnity is furnished for any expense or liability to be incurred thereby. They shall be entitled to reimbursement for expenses reasonably incurred or advances reasonably made, with interest, in the exercise of their rights or the performance of their obligations hereunder, to the extent that they act without previously obtaining indemnity. No permissive right or power to act which they may have shall be construed as a requirement to act; and no delay in the exercise of a right or power shall affect the subsequent exercise of that right or power. The Metro Government shall not be required to take notice of any breach or default by the Company hereunder, except when given notice thereof by the Bondholder. No recourse shall be had by the Company or the Bondholder for any claim based on this Lease, the Bond Purchase Agreement, or the Bond against any elected official, officer, employee, or agent of the Metro Government alleging personal liability on the part of such person unless such claim is based upon the bad faith, fraud, or deceit of such person.

Section 10.7. Option or Obligation to Purchase Project.

A. Option to Purchase Project. The Company shall have the option to purchase the Project at any time prior to the full payment of the Bond for the purchase price specified in subsection D. below.

B. Obligation to Purchase Project. The Company shall purchase the Project following full payment of the Bond in accordance with this Lease and the expiration of the Lease Term.

C. Notice of Option or Obligation. As applicable, [i] in the event the Company chooses to exercise its option to purchase the Project under subsection A. above, or [ii] not less than thirty (30) but no more than sixty (60) days prior to the termination of this Lease and the coincident obligation of the Company to purchase the Project under subsection B. above, the Company shall give written notice to the Metro Government and to the Bondholder specifying therein the date of closing such purchase, which date shall be not less than thirty (30) nor more than ninety (90) days after the Company gives such notice.

D. Purchase Price. The purchase price payable by the Company for the Project upon exercise of its option or obligation to purchase the Project shall be an amount of money which shall be sufficient [i] to prepay in full and retire at the earliest date permitted under this Lease the then outstanding Bond at a prepayment price equal to the unpaid principal amount thereof plus interest accrued thereon, or amounts sufficient to satisfy the Bondholder that the Bonds have been paid in full evidenced by a certificate of the Bondholder accepting such payment in full and releasing the Metro Government from any and all possible liability, [ii] to pay any interest accruing on the Bond to maturity or earlier prepayment, [iii] to pay all fees and expenses of the Bondholder accruing through final payment of the Bond, and [iv] to pay all amounts then due or to become due and owing to the Metro Government pursuant to this Lease, plus the sum of One Hundred Dollars (\$100.00).

E. Conveyance upon Purchase of Project. At the closing of any purchase of the Project pursuant to this Section 10.7, the Metro Government shall upon receipt of the purchase price deliver to the Company or its nominee documents conveying to the Company title to the Project, as the Project then exists, free and clear of all liens and encumbrances except as follows: [i] those liens and encumbrances (if any) to which title to the Project was subject when conveyed to the Metro Government; [ii] those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; and [iii] those liens and encumbrances resulting from the failure of the Company to perform or observe any obligation or condition under this Lease. The Company shall pay any and all real estate transfer taxes due upon such conveyance. The interest of the Metro Government in the Project shall be discharged upon the payment of the purchase price. Simultaneously with such closing there shall be assigned and transferred to the Company all moneys, receivables, claims, and other rights which relate to or are incident to the ownership of the Project.

Section 10.8. Financing Arrangement. The Metro Government and the Company acknowledge that this Lease constitutes a financing arrangement for Federal income tax purposes

and accordingly acknowledge that the Company shall be entitled to claim on its Federal income tax return all depreciation deductions and investment tax credits, if any, allowable with respect to the Project and shall be entitled to deduct as interest that portion of the amounts payable under Section 10.1.C corresponding to the amount of interest payable on the Bond. The Metro Government and the Bondholder shall cooperate with the Company in its claim of any such deductions and credits and shall provide the Company at its cost and expense with any documentation necessary to claim any such deductions and credits.

Section 10.9. Subordination to Prior Security Documents. This Lease is subject and subordinate in all respects to the terms and provisions of the Prior Security Documents.

## ARTICLE 11 DEFAULT PROVISIONS AND REMEDIES OF BONDHOLDER AND METRO GOVERNMENT

Section 11.1. Events of Default; Defaults. The occurrence and continuance of any of the following events shall constitute an "event of default" hereunder:

A. Failure to pay interest on the Bond for a period of five (5) days when such interest is due and payable.

B. Failure to pay any principal of the Bond for a period of five (5) days when such principal is due and payable, whether at stated maturity or by acceleration or pursuant to any prepayment requirements.

C. Failure by the Company to make any Lease Payment for a period of five (5) days when such payment is due and payable.

D. Failure by the Company or the Metro Government to observe or perform any other covenant, condition, or agreement on its part to be observed or performed in this Lease, the Bond Purchase Agreement, or the Bond, for a period of 30 days after notice of such failure given to the Company by the Bondholder or the Metro Government, or to the Metro Government by the Bondholder.

E. The material inaccuracy or incompleteness of any representation or warranty made in writing by or on behalf of the Company as of the date made in connection with the transactions contemplated hereby.

F. If the Company shall be involved in financial difficulties as evidenced by:

[1] its admitting in writing its inability to pay its debts generally as they become due; or

[2] its commencement of a voluntary case under Title 11 of the United States Code as from time to time in effect, or by its authorizing, by appropriate proceedings of its board of directors, the commencement of such a voluntary case; or

[3] its filing an answer or other pleading admitting or failing to deny the material allegations of a petition filed against it commencing an involuntary case under said Title 11, or seeking, consenting to, or acquiescing in the relief therein provided, or by its failing to controvert timely the material allegations of any such petition; or

[4] the entry of an order for relief in any involuntary case commenced under said Title 11; or

[5] its seeking relief as a debtor under any applicable law, other than said Title 11, of any jurisdiction relating to the liquidation or reorganization of debtors or to the modification or alteration of the rights of creditors, or by its consenting to or acquiescing in such relief; or

[6] the entry of an order by a court of competent jurisdiction [a] finding it to be bankrupt or insolvent, [b] ordering or approving its liquidation, reorganization, or any modification or alteration of the rights of its creditors, or [c] assuming custody of, or appointing a receiver or other custodian for, all or a substantial part of its property; or

[7] its making an assignment for the benefit of, or entering into a composition with, its creditors, or appointing or consenting to the appointment of a receiver or other custodian for all or a substantial part of its property.

G. If the Company shall fail to pay any amount of principal of or interest on any indebtedness for borrowed money at maturity or within any applicable period of grace or otherwise fail to observe or perform any terms, covenant, or promise contained in any agreement evidencing or securing borrowed money or under which the Company may have any direct, indirect, or contingent obligations with respect to borrowed money, all for such period of time as would permit the holder or holders of any obligations issued pursuant to such agreement to accelerate the maturity thereof.

H. If the Company shall suffer any adverse change in its financial condition which is material in relation to the Company's overall business.

The term "default" hereunder means a default by the Metro Government or the Company which, with the passage of time or the giving of notice or both, would constitute an event of default.

The Company agrees to notify the Metro Government and the Bondholder promptly in writing of the occurrence of any event of default.

Within five days after knowledge of an event of default under subsection A. or B. above, the Bondholder shall give written notice, by registered or certified mail, to the Metro

Government and the Company, provided that any failure of the Bondholder to give such notice shall not constitute a waiver of such event of default.

Section 11.2. Acceleration. Upon the occurrence and continuance of any event of default, the Bondholder, by written notice to the Metro Government and the Company, may declare the Bond then outstanding to be due and payable immediately, and, upon said declaration, all principal and interest accrued thereon shall become immediately due and payable and there shall be an automatic corresponding acceleration of the Lease Payments. Interest shall accrue to the payment date determined by the Bondholder pursuant to such declaration or the actual payment date, if later.

Section 11.3. Other Remedies; Rights of Bondholder. Upon the occurrence and continuance of an event of default, the Bondholder may pursue any available remedy to enforce the payment of principal of and interest on the Bond then outstanding.

Upon the continuance of an event of default, the Bondholder may exercise such of the rights and powers conferred upon it by this Lease as the Bondholder, being advised by counsel, shall deem most effective to enforce and protect its interest.

No remedy under this Lease is intended to be exclusive, and each remedy shall be cumulative and in addition to any other remedy hereunder or now or hereafter existing.

No delay or omission to exercise any right or power shall impair such right or power or constitute a waiver of any default or event of default or acquiescence therein; and each such right and power may be exercised as often as deemed expedient.

No waiver by the Bondholder of any default shall extend to any subsequent default or event of default.

Section 11.4. Application of Moneys. Upon the occurrence and continuance of an event of default, all moneys and proceeds held or received by the Bondholder pursuant to this Lease or the exercise of any rights granted hereby, less all costs, expenses, liabilities, and advances incurred by the Bondholder, shall be applied [i] to the payment of any amounts due as Additional Payments under Section 10.1 .D and [ii] then to the payment of interest, including interest on overdue principal, then due on the Bond, without regard to when such interest became due, and next to the payment of principal then due on the Bond, without regard to when such principal became due; or in such order as may be determined by the Bondholder with the written consent of the Metro Government, if the Metro Government is affected thereby.

Section 11.5. Waivers of Events of Default. The Bondholder may waive any event of default and its consequences and rescind any declaration of maturity of principal, but no such waiver or rescission shall extend to any subsequent or other event of default.

Section 11.6. Remedies of Metro Government upon Event of Default. Upon the occurrence and continuance of an event of default, the Metro Government [i] shall, if requested by the Bondholder, confirm in writing any acceleration of Lease Payments, [ii] may, upon the

request of the Bondholder, take such action in law or equity as may appear desirable to collect any past due or accelerated Lease Payments or other payments hereunder or to enforce compliance with any obligation or agreement of the Company in this Lease and [iii] shall have access to and may examine and make copies of the books, accounts, and other data and tax returns of the Company insofar as they pertain to the Company's operations at the Project. However, the Metro Government shall not be required to take any action which in its opinion might cause it to expend time or money or otherwise incur any liability unless a satisfactory indemnity bond has been furnished to it.

## ARTICLE 12 SUPPLEMENTAL LEASES AND WAIVERS

Section 12.1. Supplemental Leases and Waivers. The parties hereto agree to deliver supplemental agreements or waivers, if necessary, for the purpose of modifying, altering, amending, adding to, or rescinding or waiving (generally or in a particular circumstance) any terms or provisions contained in this Lease or in any supplemental agreement or in the Bond.

## ARTICLE 13 MISCELLANEOUS

Section 13.1. Limitation of Rights. With the exception of rights herein expressly or impliedly conferred upon the parties hereto, nothing expressed or implied from this Lease or the Bond shall give to any person other than the parties hereto any right or remedy with respect to this Lease.

Section 13.2. Severability. In the event that any provision of this Lease shall be held to be invalid in any circumstance, such validity shall not affect any other provision or circumstance.

Section 13.3. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, addressed to the appropriate Notice Address, with a copy to each other party hereto.

Section 13.4. Payments Due on Saturdays, Sundays, or Holidays. In any case where the date of payment or prepayment of interest on or principal of any Bond shall be a Saturday, Sunday or a legal holiday in the State, then payment of such interest or principal need not be made on such date but may be made on the next succeeding business day on which the Bondholder is open for business with the same force and effect as if made on the date of maturity or the date fixed for prepayment, provided, however, that interest shall accrue to and including the date of actual payment.

Section 13.5. Extent of Covenants; No Personal Liability. No covenant, stipulation, obligation, or agreement of the Metro Government contained in this Lease shall be deemed to be a covenant, stipulation, obligation, or agreement of any present or future elected official, officer, employee, or agent of the Metro Government in his individual capacity; and no such person (including any such person executing the Bond) shall be liable personally on the Bond or be subject to any personal liability by reason of their issuance.

Section 13.6. Captions; Table of Contents. The captions, headings, and table of contents in this Lease are for convenience of reference only and in no way limit the scope or content of any provision of this Lease.

Section 13.7. Counterparts. This Lease may be executed simultaneously in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.8. Governing Law. This Lease and the Bond shall be governed by and construed in accordance with the laws of the State.



IN WITNESS WHEREOF, the Metro Government has caused this Lease to be executed and delivered in its name and behalf by its Mayor and attested by its Metro Council Clerk and the Company has caused this Lease to be duly executed and delivered in its name and behalf by its authorized officer, all as of the date first above written.

LOUISVILLE/JEFFERSON COUNTY METRO  
GOVERNMENT

Attest:

\_\_\_\_\_  
Metro Council Clerk

By: \_\_\_\_\_  
Mayor

UNIVERSITY RESIDENCES - LOUISVILLE, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
Michael J. O'Connell  
Jefferson County Attorney

\_\_\_\_\_  
By: James T. Carey  
Assistant County Attorney

## ACKNOWLEDGEMENTS

[illegible]

The foregoing instrument was acknowledged before me on June \_\_, 2008 by Jerry E. Abramson and Kathleen J. Herron, the Mayor and the Metro Council Clerk, respectively, of the Louisville/Jefferson County Metro Government, a municipal corporation and political subdivision of the Commonwealth of Kentucky, on behalf of said Metro Government.

My commission expires: \_\_\_\_\_

Notary Public

(SEAL)

[illegible]

The foregoing instrument was acknowledged before me on June \_\_, 2008 by \_\_\_\_\_, the \_\_\_\_\_ of University Residences - Louisville, LLC, an Ohio limited liability company, on behalf of said company.

My commission expires: \_\_\_\_\_

Notary Public

(SEAL)

This instrument was prepared by:

William L. Skees, Jr.  
FROST BROWN TODD LLC  
400 West Market Street, 32<sup>nd</sup> Floor  
Louisville, Kentucky 40202  
(502) 589-5400

**EXHIBIT A**  
**PROJECT SITE**

**EXHIBIT B**

**PROJECT EQUIPMENT**

All right, title and interest, present or future, in and to the equipment, machinery and removable fixtures constituting or to constitute a part of the "Project" as defined and described herein.

**EXHIBIT C**  
**FORM OF REQUISITION CERTIFICATE**

TO: Bondholder

FROM: University Residences - Louisville, LLC

RE: Louisville/Jefferson County Metro Government  
Industrial Building Revenue Bond, Series A  
(University Residences - Louisville, LLC Project)

The undersigned hereby requisitions the sum of \$\_\_\_\_\_ to pay, or to reimburse the Company for the payment of, those Costs of the Project aggregating not less than such sum which are itemized in the schedule attached. Terms used herein have the same meanings as in the Lease and Financing Agreement (the "Lease") pursuant to which the above-referenced Bond was issued.

The undersigned does hereby certify that:

1. The moneys requisitioned hereby are not greater than those necessary to pay, or to reimburse the Company for the payment of, Costs of the Project qualifying for payment or reimbursement under the Lease.

2. The Company is not in default under the Lease and nothing has occurred to the knowledge of the Company that would prevent the performance of its obligations under the Lease.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

UNIVERSITY RESIDENCES –  
LOUISVILLE, LLC

By:\_\_\_\_\_

Title:\_\_\_\_\_

SCHEDULE TO REQUISITION CERTIFICATE

Description of Property		
<u>Payee and Address</u>	<u>Description of Property or Services Provided</u>	<u>Amount</u>

## **EXHIBIT D**

### **UNITED STATES OF AMERICA COMMONWEALTH OF KENTUCKY**

#### **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT INDUSTRIAL BUILDING REVENUE BOND, SERIES A (UNIVERSITY RESIDENCES - LOUISVILLE, LLC PROJECT)**

Dated September \_\_\_, 2008

No. \_\_\_\_\_

\$40,000,000

The Louisville/Jefferson County Metro Government (the "Metro Government"), a municipal corporation and political subdivision of the Commonwealth of Kentucky (the "State"), for value received, hereby promises to pay to University Residences - Louisville, LLC, or registered assigns, on September 1, 2033, unless earlier prepaid as hereinafter provided, the principal amount of Forty Million Dollars (\$40,000,000), or such lesser amount of principal as may be outstanding hereunder, and interest on the unpaid balance of such principal at the rate of six percent (6%) per annum payable on each anniversary of the date hereof. All payments shall be applied first to the payment of interest and the remainder to principal.

This Bond is issued pursuant to and in full compliance with the Constitution and laws of the State, particularly the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act"), and an ordinance of the Metro Government duly enacted on June 26, 2008 (the "Bond Ordinance"). The Bond Ordinance authorizes the execution and delivery of a Lease and Financing Agreement dated of even date herewith (the "Lease") among the Metro Government, as lessor, and University Residences - Louisville, LLC (the "Company"), as lessee; the issuance under the Lease of the series of bonds designated as above and issued as a single fully registered bond in the principal amount of \$40,000,000 (the "Bond"); and the application of the proceeds of the Bond pursuant to the Lease to finance the costs of acquiring, constructing, and installing a certain "industrial building" (as defined in the Act and described in the Lease) located within the Metro Government, to be used and occupied by the Company in its business operations; all for the public purposes declared in the Act of promoting the economic development of the State, relieving conditions of unemployment, and encouraging the increase of industry therein.

The Lease requires the Company to make Lease Payments to the Bondholder for the account of the Metro Government sufficient for the payment when due of the principal of and interest on the Bond.

The Bond is secured under and entitled to the protection of the Lease. Reference is hereby made to the Bond Ordinance and the Lease for a description of the security for and source of payment of the Bond, the rights, duties, and obligations of the Metro Government and the registered owner from time to time of the Bond (the "Bondholder"), and the terms upon which the Bond is issued and secured. Acceptance of the terms and conditions of the Bond

Ordinance and the Lease is a material part of the consideration for the issuance of the Bond, and each holder of the Bond by acceptance thereof hereby assents to all of said terms and conditions.

This Bond is transferable on the bond register upon its surrender at the office of the Company accompanied by a written instrument of transfer in form satisfactory to the Company, duly executed by the registered owner or its attorney or legal representative, for notation by the Company indicating the name of the transferee, the date to which interest has been paid, and the balance of principal due hereon. The Metro Government and the Company may treat the person in whose name this Bond is registered as the absolute owner hereof for all purposes and shall not be affected by any notice to the contrary.

Principal of the Bond is subject to prepayment at the option of the Metro Government, as directed by the Company, prior to stated maturity, in whole or in part, on any date at 100% of the principal amount prepaid, plus accrued interest thereon to the prepayment date. By written notice to the Company, the Bondholder may demand that the Company prepay all or a portion of the outstanding principal amount of the Bond, at 100% of the principal amount prepaid plus accrued interest thereon to the date of prepayment, on any specified date not less than fifteen (15) nor more than thirty (30) days after the date of such notice. Principal of the Bond is also subject to mandatory prepayment in the event of condemnation, destruction, or damage of or to the Project as provided in the Lease.

All prepayments shall be in increments of not less than \$100,000 or such lesser amount as may be required to prepay the Bond in whole.

In certain events as provided in the Lease, the principal of the Bond then outstanding may become or be declared due and payable before its stated maturity, together with interest accrued thereon. Modifications or alterations of the Lease, or of any supplements thereto, may be made only as provided in the Lease.

No recourse shall be had for the payment of the principal or interest on this Bond, or for any claim based hereon or on the Lease, against any elected official, officer, employee, or agent, past, present, or future, of the Metro Government or of any successor body, as such, either directly or through the Metro Government or any such successor body, under any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, all such liability of such elected official, officers, employees, and agents being released as a condition of and as an explicit and material part of the consideration for the execution of the Lease and the issuance of this bond.

**[This Bond and the interest hereon do not constitute a general obligation or indebtedness of the Metro Government within the meaning of the Constitution and laws of the State and are not a charge against the general credit or taxing power of the Metro Government but are a limited obligation of the Metro Government payable solely from and secured solely by the Pledged Receipts as defined in the Lease.]**



IN WITNESS WHEREOF, the Metro Government has caused this Bond to be signed in its name by its Mayor and attested by its Metro Council Clerk under the official seal of the Metro Government, all as of the date first above written.

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Metro Council Clerk

(SEAL)

### SCHEDULE OF DISBURSEMENTS AND PAYMENTS

The Bondholder shall note hereon the date and amount of each disbursement of the principal amount of the Bond pursuant to Section 5.1 of the Lease, the date and amount of each payment of interest on the Bond pursuant to Section 3.1 of the Lease, the date and amount of each prepayment of principal of the Bond pursuant to Article 4 of the Lease, and the outstanding principal amount of the Bond from time to time; provided, however, that the presence or absence of any such notation shall not be conclusive as to the actual outstanding principal amount of or interest payable on the Bond at any time.

<u>Date of</u> <u>Disbursement</u> <u>or Payment</u>	<u>Principal</u> <u>Disbursement</u>	<u>Interest</u> <u>Paid</u>	<u>Principal</u> <u>Paid</u>	<u>Outstanding</u> <u>Principal</u>
------------------------------------------------------------	-----------------------------------------	--------------------------------	---------------------------------	----------------------------------------

## ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers  
unto

\_\_\_\_\_  
[Please type or print name, address (including  
\_\_\_\_\_  
postal zip code) and Social Security or other  
\_\_\_\_\_  
tax identification number of the transferee]

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_ attorney to transfer said bond on the books of the within named bond registrar  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTE: The signature on this Assignment  
must correspond with the name as it appears  
on the face of the within bond in every  
particular, without alteration or enlargement  
or any change whatever.

Signature guaranteed:

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
NOTE: The signature of the assignor must  
be guaranteed by an eligible guarantor  
institution which is a member of or  
participant in a signature guarantee program,  
pursuant to Securities and Exchange  
Commission Rule 17Ad-15 or any successor  
provision.

## EXHIBIT E

### Conditions of Employment

#### University Residences – Louisville, LLC

- A. Those Employed for the Construction of the Project shall be paid not less than the prevailing wages determined by the U.S. Department of Labor to be applicable to residential construction in Jefferson County, Kentucky.
- B. Use of Local Labor                      Goal:    15% of labor to come from Louisville Metro area
- C. Minority Businesses (MBE)    Goal:    15% of minority owned businesses by dollar volume of total construction costs
- D. Female Businesses (FBE)        Goal:    5% of female owned businesses by dollar volume of total construction costs
- E. Disabled Businesses                Goal:    .05% of disabled owned businesses by dollar volume of total construction costs
- F. Reporting Requirements:

Louisville Metro Labor Requirement. University Residences – Louisville, LLC will provide written certification quarterly commencing September 1, 2008 to C. Bruce Traughber or his successor. Certification shall include total number of workers at the construction site and total number of workers that a residents of Louisville Metro.

Minority/Female/Disabled Owned Businesses. University Residences – Louisville, LLC will provide written certification quarterly commencing September 1, 2008 to C. Bruce Traughber or his successor. Certification shall include dollar volume of contracts to minority owned businesses (MBE), dollar volume of contracts to female owned businesses (FBE), and dollar volume of contracts to disabled owned businesses, and containing total construction dollars value of contracts let.